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Michigan looks to codify pot, stem-cell laws Some had opposed Props 1 and 2

By: MEGHA SATYANARAYANA

Tuesday's passage of new medical marijuana and embryonic stem-cell laws could pose interesting legal quandaries as the state tries to codify them in upcoming months.

The Michigan Medical Marijuana Act, formerly Proposal 1, would legalize growth and possession of small quantities of marijuana for people with chronic and terminal illnesses to use for pain and nausea relief.

The act will be written into law 10 days after the Board of Canvassers approves the November election results, at the latest by Nov. 24, according to Secretary of State officials. The Michigan Department of Community Health will then have 120 days to design the program, which includes identification cards and state oversight.

"We're setting ourselves up for an interesting dynamic," said Peter Hammer, a health law professor at Wayne State University. "It's hard to get the state to regulate something it doesn't want to."

Hammer said policing MDCH -- whose director opposed the proposal -- to ensure the law is properly enforced could be difficult.

Unofficial results show every Michigan county voted in favor of medical marijuana, giving it a 63%-37% victory. It will be about May 1 before any legal attempt to use the drug happens, said Dianne Byrum, a spokeswoman for the proposal's backers, Michigan Coalition for Compassionate Care.

Proposal 2, which allows researchers to harvest stem cells from embryos left over from fertility treatments for disease research, passed 53%-47%. It will be a constitutional amendment and be written into the books 45 days after the election.

Amending the Michigan Constitution makes it extremely difficult for the Legislature to completely outlaw or penalize embryonic stem-cell research, and it would take a three-quarters vote in both houses to overturn the amendment.

It might be easier to enforce, said Hammer, because "it's a prohibition of state interference as long as the research is allowed with federal law."

President-elect Barack Obama said he will lift the federal funding ban on embryonic stem-cell research, which could lead to legislation.

Opponents of embryonic stem-cell research have turned to lawsuits to slow legislation in other states, which could happen in the state, but may have little effect, said Hammer. Chris DeWitt of Proposal 2

advocates Cure Michigan said he's heard nothing of lawsuits, but that "doesn't rule out anything at this point."